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25 T. R. HEATHORN, DELORES E. HEATHORN,  
26 EDWARD W. HEATHORN, WENDY C. HEATHORN  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES FIDELITY AND  
GUARANTY COMPANY,

Plaintiffs,

v.

N.V. HEATHORN, INC., a California  
Corporation; NORMAN T. R.  
HEATHORN, an individual; DELORES E.  
HEATHORN, a/k/a DOLORES E.  
HEATHORN, an individual; EDWARD  
W. HEATHORN, an individual; WENDY  
C. HEATHORN, an individual; and DOES  
1 through 100, inclusive,

Defendants.

CASE NO. 03-02156 CW

**JOINT DECLARATION RE STATUS OF  
STATE COURT ACTION AND REQUEST  
FOR CONTINUANCE OF CASE  
MANAGEMENT CONFERENCE,  
~~PROPOSED ORDER~~**

JUDGE: Hon. Claudia Wilken

1 Plaintiff United States Fidelity and Guaranty Company ("USF&G") and defendants  
2 N.V. Heathorn, Inc., Norman T.R. Heathorn, Delores E. Heathorn, Edward W. Heathorn, and  
3 Wendy C. Heathorn (collectively "Heathorns") jointly submit this Joint Declaration and Request  
4 regarding the filing of USF&G's motion to assign the state court case to a department, Heathorn  
5 and USF&G's (jointly refereed to as "the Parties") submission of this case to mediation, and the  
6 Parties' request that this Court continue the January 8, 2008 Case Management Conference until  
7 after the Parties have completed mediation on March 10, 2008 before mediator Randall Wulff.

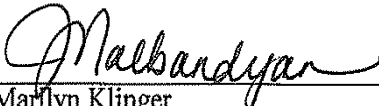
8 At the November 8, 2007 case management conference in this case, this Court informed  
9 the Parties that the Court did not approve of the Parties' agreement to place the state court case  
10 "on hold" pending the outcome of mediation. The Court instructed the Parties to move the state  
11 court case along, either by requesting that the state court assign the case to a department or by  
12 completing mediation earlier than the currently-scheduled March 10, 2008 mediation date.

13 In compliance with this Court's instructions, USF&G has filed a motion in the state court  
14 to assign the state-court case to Department 19, the Honorable Stephen Dombrink presiding.  
15 Judge Dombrink presided over the 2005 state court trial in this case. Heathorns have reserved  
16 their rights to, and intend to, object to assigning the case to Department 19.

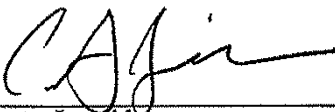
17 The Parties have also contacted Mr. Wulff's office and requested notification of any  
18 cancellations in Mr. Wulff's mediation calendar that would enable the Parties to mediate this  
19 case prior to the currently-scheduled March 10, 2008 mediation date. Should the Parties  
20 complete mediation prior to March 10, 2008, the Parties will immediately notify this Court.

21 Based on the foregoing, the Parties respectfully request that this Court continue the Case  
22 Management Conference currently scheduled for January 8, 2008 until after March 10, 2008.

23 DATED: December 17, 2007

24   
Marilyn Klinger  
Janet Nalbandyan  
Sedgwick, Detert, Moran & Arnold, LLP  
Attorneys for Plaintiff United States Fidelity and  
25 Guaranty Company  
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2 DATED: December 17, 2007  
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Janette Leonidou  
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C. Andrew Gibson  
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Attorneys for Defendants N.V. Heathorn, Inc.,  
Norman T.R. Heathorn, Delores E. Heathorn,  
Edward W. Heathorn, and Wendy C. Heathorn

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
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11 UNITED STATES FIDELITY AND  
12 GUARANTY COMPANY,

13 Plaintiffs,

14 v.

15 N.V. HEATHORN, INC., a California  
16 Corporation; NORMAN T. R.  
17 HEATHORN, an individual; DELORES E.  
18 HEATHORN, a/k/a DOLORES E.  
19 HEATHORN, an individual; EDWARD  
20 W. HEATHORN, an individual; WENDY  
21 C. HEATHORN, an individual; and DOES  
22 1 through 100, inclusive,

23 Defendants.  
24

CASE NO. 03-02156 CW

~~PROPOSED~~ ORDER

JUDGE: Hon. Claudia Wilken

25 Having read and considered the Parties' joint declaration, the Court hereby Orders as  
26 follows:  
27

28 The Case Management Conference is continued from January 8, 2008 to March 18, 2008.

The parties are ordered to comply with this Order. In addition, the Court orders:  
an updated Case Management Statement will be due one week prior to conference.

DATED: December 21, 2007

  
United States District Judge

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to  
3 the within action. My business address is Sedgwick, Detert, Moran & Arnold LLP, 801 South  
4 Figueroa Street, 19th Floor, Los Angeles, California 90017-5556. On December 17, 2007, I  
5 served the within document(s):

6 **JOINT CASE MANAGEMENT STATEMENT AND [PROPOSED] ORDER**

- 7 ☐ FACSIMILE - by transmitting via facsimile the document(s) listed above to the  
8 fax number(s) set forth on the attached Telecommunications Cover Page(s) on this  
9 date before 5:00 p.m.
- 10 ☒ MAIL - by placing the document(s) listed above in a sealed envelope with postage  
11 thereon fully prepaid, in the United States mail at Los Angeles, California  
12 addressed as set forth below.
- 13 ☐ PERSONAL SERVICE - by personally delivering the document(s) listed above to  
14 the person(s) at the address(es) set forth below.
- 15 ☐ OVERNIGHT COURIER - by placing the document(s) listed above in a sealed  
16 envelope with shipping prepaid, and depositing in a collection box for next day  
17 delivery to the person(s) at the address(es) set forth below via .

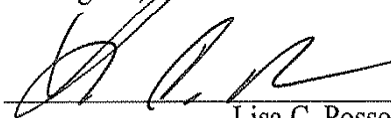
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Attorneys for N.V. HEATHORN, INC.,  
NORMAN T. R. HEATHORN, DELORES E.  
HEATHORN, EDWARD W. HEATHORN,  
WENDY C. HEATHORN

18 I am readily familiar with the firm's practice of collection and processing correspondence  
19 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
20 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
21 motion of the party served, service is presumed invalid if postal cancellation date or postage  
22 meter date is more than one day after date of deposit for mailing in affidavit.

21 I declare that I am employed in the office of a member of the bar of this court at whose  
22 direction the service was made.

23 Executed on December 17, 2007, at Los Angeles, California.

24 

25 Lisa C. Posso